

Docket No.: 28944/50018
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Mathias Fink
Application No.: 10/565,617

Confirmation No.: 2357

Filed: February 28, 2007

Art Unit: 3662

For: SOUND-WAVE IMAGING METHOD AND
APPARATUS

Examiner: Luke D. Ratcliffe

DECLARATION TO SWEAR BEHIND REFERENCE PURSUANT TO 37 CFR 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the outstanding office action received for the above-referenced application, claims 1-15, 18-24, 26, and 29-31 are rejected as obvious over a combination of the prior art. In response, applicants hereby swear behind U.S. Patent No. 7,496,456 (Hiyama) pursuant to the provisions of 37 CFR 1.131. A statement of facts is as follows:

1. Hiyama was filed with the U.S. Patent & Trademark Office on July 30, 2007 as a national phase of International Application No. PCT/JP2005/007816 filed on April 25, 2005.

2. Hiyama claimed priority to Japanese Patent Applications 2004-130390 and 2004-130391, both having a priority date of April 26, 2004.

3. The present application was filed with the U.S. Patent & Trademark Office on February 28, 2007.

4. The present application is a national phase application of International Patent Application No. PCT/FR04/01980 filed on July 23, 2004.

5. The present application claimed priority to French Patent Application No. FR0309140 filed on July 25, 2003.

6. The provisions of 37 CFR 1.131 require reduction to practice prior to the effective date of the reference.

7. The effective date of Hiyama, as shown above, is April 26, 2004.

8. The present application was constructively reduced to practice, as shown above, on July 25, 2003.

9. Based on the foregoing, it is clear that reduction to practice of the above-referenced application occurred at least as earlier as July 25, 2003, preceding the effective priority date of Hiyama and thereby removing Hiyama as prior art.

10. In light of the foregoing, applicants respectfully request that Hiyama be removed as a prior art reference to the present application.

Dated: November 3, 2009

Respectfully submitted,

By _____
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